

**AMENDMENT AND RESPONSE TO SECOND OFFICE ACTION
U.S.S.N. 10/612,463****Remarks**

The present invention is directed to kits for intravesicular instillation of resiniferatoxin, tinyatoxin, 20-homovanillyl-mezerein or 20-homovanillyl-12-deoxyphorbol-13-phenylacetate. Claim 4 has been previously cancelled. Claim 1 has been amended. Claims 11-13 are newly added. Support for the amendments and new claims is found in the specification at least at paragraphs 56, 57 and 60. By entry of this amendment, claims 1-3 and 5-13 are pending.

Rejections under 35 U.S.C. §102

Claims 1, 5 and 6-7 are rejected under 35 U.S.C. §102(b) for lacking novelty over Craft et al, Physiology & Behavior 56(3):479-486, 1994 ("Craft"). Applicants respectfully traverse the rejection as it applies to the amended claims.

The claims are directed to a kit comprising a sterile unit dose of a therapeutic compound that is compatible with bladder mucosa and does not cause meaningful pain or irritation when administered. The claims have been amended to recite that the unit dose is sterile. Craft administers RTX to rats for only a 24 hour period before the experiment is concluded so Craft would not have any regard for sterility of the RTX solutions like one would have in human treatment.

The specification also teaches that the formulations and kits disclosed therein are compatible with bladder mucosa and do not cause meaningful pain or irritation when administered. Since the therapeutic compositions disclosed by Craft all cause significant pain and irritation as evidenced by the frequent peritoneal licking, Craft fails to satisfy all elements of the claims and therefore does not anticipate the claimed kits. Withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. §103

Claims 2 and 3 have been rejected under 35 U.S.C. §103 for being obvious over Craft in view of U.S. Patent No. 4,939,149 ("Blumberg"). Applicants respectfully traverse the rejection as it applies to the amended claims.

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Craft is discussed above. Blumberg fails to disclose that RTX can be formulated such that the final administered composition is compatible with bladder mucosa and does not cause meaningful pain or irritation when administered.

Blumberg teaches that resiniferatoxin is an extremely irritant diterpene. Even the examples of the specification necessitate the use of ether anaesthesia to avoid unnecessary pain (column 6, line 34). One of ordinary skill would conclude, when faced with the teachings of Blumberg, that RTX would cause pain and burning sensations when administered. Blumberg actually teaches away from the Applicants' invention that low doses of RTX in humans treats urinary incontinence without causing pain or burning sensations that are associated with CAP treatment or higher concentrations of RTX that are seen in Blumberg. (Specification paragraphs 14). The claimed kit is inventive by providing a dosage that treats urinary incontinence without pain and burning sensations. This feature could not possibly be obvious in view of the teachings of Blumberg that teach how irritating RTX is. Even Craft teaches that RTX administration in rats results in a visceral nociceptive response. (Craft, page 479, second column). As such, neither Craft or Blumberg provides sufficient motivation to arrive at the claimed kits for providing a therapeutic dosage of RTX as claimed and fail to render the claimed kits obvious. Withdrawal of this rejection is respectfully requested.

Claims 8-10 have been rejected under 35 U.S.C. §103 for being obvious over Craft in view of U.S. Patent No. 2,182,075 ("Ebert"). Applicants respectfully traverse the rejection as it applies to the amended claims

Craft has been discussed above. Ebert fails to make up for the deficiencies of Craft and therefore fails to render the claimed kits obvious. Withdrawal of this rejection is respectfully requested.

Double Patenting

Claims 1-3 have been rejected for obviousness-type double patenting over U.S. Patent 6,630,515. Applicants request deferral of this rejection until such a time that patentable subject

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matter is found. At that time, Applicants will file an appropriate terminal disclaimer if necessary.

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Conclusions

Applicants submit that the response herein provides a complete response to the Office Action dated December 28, 2007.

If the Examiner believes there are other issues that may be resolved by telephone interview, or that there are any informalities remaining in the application that may be corrected by Examiner's Amendment, a telephone call to the undersigned is respectfully solicited.

No additional fees are believed due, however the Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment of fees to Deposit Account number 11-0980.

Respectfully submitted,



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